

Message Text

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ORIGIN L-03

INFO OCT-01 AF-10 ISO-00 SSO-00 NSCE-00 USIE-00 INRE-00
CIAE-00 DODE-00 PM-05 H-01 INR-07 NSAE-00 PA-01
PRS-01 SP-02 SS-15 AID-05 COME-00 EB-08 FRB-03
TRSE-00 XMB-02 OPIC-03 LAB-04 SIL-01 OMB-01
STR-05 CEA-01 DOTE-00 IO-13 HA-05 ACDA-12 /109 R

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DOC/CAGNE- JHEARN

DOC- KKNOWLES

DOC- VROCQUE

DOT- LSANTOS

AF/W-PRCHAVEAS

-----129299 222344Z /61

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FM SECSTATE WASHDC

TO AMEMBASSY LAGOS IMMEDIATE

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E.O. 11652: N/A

TAGS: ETRD, ESTC, BEXP, NI

SUBJECT: FIRM REQUESTS POSITIVE GUIDANCE ON NIGERIA'S
BOYCOTT OF SOUTH AFRICA

REF: LAGOS 14140

1. AS EMBASSY IS AWARE, DEVELOPMENT OF FMG'S BOYCOTT POLICY
AGAINST SOUTH AFRICA STILL AT FORMATIVE STAGE. DEPARTMENT
UNDERSTANDS UNCERTAINTY AND APPREHENSION WHICH THIS SITUA-
TION PRESENTS FOR U.S. BUSINESSMEN. HOWEVER, IN THE
ABSENCE OF (A) AN ARTICULATED BOYCOTT POLICY BY FMG AND (B)
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SPECIFIC LANGUAGE WHICH THE NIGERIANS ARE PROPOSING FOR
INCLUSION IN CONTRACTS, IT IS IMPOSSIBLE FOR THE DEPARTMENT
(OR COMMERCE OR TREASURY) TO OFFER SPECIFIC GUIDANCE.

2. COMMERCE DEPARTMENT'S PROPOSED REGULATIONS PURSUANT TO
EXPORT ADMINISTRATION AMENDMENTS OF 1977 GENERALLY PROHIBIT
A U.S. PERSON FROM (A) FURNISHING INFORMATION ABOUT ITS

PAST, PRESENT, OR PROPOSED BUSINESS RELATIONS WITH A BOYCOTTED COUNTRY, OR (B) REFUSING OR AGREEING TO REFUSE, FOR BOYCOTT REASONS, TO DO BUSINESS WITH A BOYCOTTED COUNTRY, ITS NATIONALS OR BUSINESS FIRMS ORGANIZED UNDER ITS LAWS. POST SHOULD BEAR IN MIND, HOWEVER, THAT FINAL REGULATIONS DUE TO TAKE EFFECT ON JANUARY 18, 1978 MAY NOT

BE IDENTICAL TO PROPOSED REGULATIONS ISSUED ON SEPTEMBER 20, 1977. FOR THIS REASON, PLUS ABSENCE OF DESCRIPTION OF CIRCUMSTANCES IN CASE AT ISSUE, COMMERCE NOT ABLE AT THIS TIME TO OFFER DEFINITIVE GUIDANCE AS REQUESTED PARA 2 REFTEL.

3. DEPARTMENT OF TREASURY ADVISES THAT WITH REGARD TO ITS ANTI-BOYCOTT GUIDELINES, THERE IS NOTHING IN THE GUIDELINES THAT WOULD PREVENT A US PERSON FROM MAKING A CERTIFICATION OR REPRESENTATION THAT IT DOES NOT DO BUSINESS IN SOUTH AFRICA. IF, HOWEVER, A FIRM WERE TO MAKE AN ADVANCE COMMITMENT TO EITHER PROVIDE SUCH A CERTIFICATE OR MAKE SUCH A REPRESENTATION, IT WOULD BE SUBJECT TO ADVERSE TAX CONSEQUENCES UNDER THE BOYCOTT GUIDELINES. AS A TECHNICAL MATTER, THE ONLY LEGALLY BINDING WAY FOR A COMPANY TO OBTAIN RELIABLE GUIDANCE, AND THUS AVOID ADVERSE TAX CONSEQUENCES, IS FOR IT TO OBTAIN A FORMAL DETERMINATION LETTER FROM THE INTERNAL REVENUE SERVICE. EMBASSY SHOULD REMIND US FIRMS OF THIS FACT.
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4. FINALLY, AS EMBASSY KNOWS, STATE, COMMERCE AND TREASURY LAWYERS HAVE HAD FULL AND SUBSTANTIVE DISCUSSIONS WITH THE FMG AND EMBASSY WITH REGARD TO THE OPERATION OF BOTH SETS OF US ANTI-BOYCOTT RULES. THE IMPLICATIONS OF THOSE RULES FOR THE FMG'S STILL-UNCRYSTALLIZED BOYCOTT POLICY AND THE ATTENDANT DIFFICULTIES CREATED FOR US BUSINESS DEALINGS WITH NIGERIA SHOULD NOW BE APPARENT TO THE FMG AND SHOULD NOT NEED FURTHER ELABORATION BY THE USG AS REQUESTED PARA 3 REFTEL. AS RESULT OF RECENT TRIP TO LAGOS BY US BOYCOTT LAWYERS, EMBASSY IS NOW IN POSITION TO EXPLAIN US BOYCOTT POLICY TO LOCAL AMERICAN BUSINESS COMMUNITY. VANCE

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: BOYCOTTS
Control Number: n/a
Copy: SINGLE
Sent Date: 22-Dec-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977STATE305562
Document Source: CORE
Document Unique ID: 00
Drafter: TMPEAY:DFF
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D770478-0770
Format: TEL
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t19771224/aaaaauhz.tel
Line Count: 107
Litigation Code IDs:
Litigation Codes:
Litigation History:
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Message ID: 97cfcafd-c188-dd11-92da-001cc4696bcc
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